COMPANY: MBI Inc.
COUNTRY: China
FACTORY CODE: 180015164H
MONITOR: Level Works Limited
AUDIT DATE: December 22 – 23, 2010
PRODUCTS: Resin Craft Products
PROCESSES: Molding, Trimming, Hand Painting, Assembly, Inspection, Packing
NUMBER OF WORKERS: 130

FLA Comment: This report was submitted with a corresponding corrective action plan to the FLA and was reviewed by FLA staff. In an effort to improve the effectiveness of remediation, the FLA has provided feedback and recommendations to the company. The FLA has not yet received a response from the company. Therefore, the report is posted in its current state and will be updated once a finalized report has been received.

For an explanation on how to read this report, please visit the FLA website here.
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**Wages, Benefits and Overtime Compensation: Holidays, Leave, Legal Benefits and Bonuses**

WBOT.5 Employers shall provide all legally mandated holidays, leave, benefits and bonuses, such as official holidays, annual leave, sick leave, severance payments and 13th month payments, to all eligible workers within legally defined time periods. In addition, all leave and bonuses shall be calculated correctly. (S)

**Noncompliance**

**Explanation:** It was noted that the factory did not pay piece rate workers wages for the public holidays on October 1st, 2nd, 3rd and 6th, 2009, when workers enjoyed holidays.

Legal Reference: PRC Labor Law, Article 51

<table>
<thead>
<tr>
<th>Plan Of Action:</th>
<th>The factory remedied this issue on January 8, 2010.</th>
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<tbody>
<tr>
<td>Deadline Date:</td>
<td>01/08/2010</td>
</tr>
<tr>
<td>Action Taken:</td>
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<tr>
<td>Plan Complete:</td>
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<td>Plan Complete Date:</td>
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</table>
Wages, Benefits and Overtime Compensation: Deposit of Legally Mandated Deductions

WBOT.13 All legally mandated deductions for taxes, social insurance, or other purposes shall be deposited each pay period in the legally defined account or transmitted to the legally defined agency. This includes any lawful garnishments for back taxes, etc. The employer shall not hold over any of these funds from one pay period to the other unless the law specifies that deposits are to be made less frequently than pay periods (e.g., monthly deposits, weekly pay). If the law does not specify, then deposits shall be made before the next pay period in all cases. (S)

Noncompliance

Explanation: It was noted that only 12 out of 130 employees had participated in all 5 types of social insurance (illness or injury, disability caused by work-related injury or occupational disease, retirement, unemployment and childbearing insurances). However, the factory had obtained a written waiver from the local social insurance bureau.

Legal Reference: PRC Labor Law, Article 72

Plan Of Action: The factory will provide the 5 types of social insurance to all contract employees.

Deadline Date: 06/01/2010

Action Taken: No

Plan Complete: No

Plan Complete Date:
**Wages, Benefits and Overtime Compensation: Premium/Overtime Compensation**

WBOT.10 The factory shall comply with all applicable laws, regulations and procedures governing the payment of premium rates for work on holidays, rest days, and overtime. (S)

**Noncompliance**

**Explanation:** It was noted that the factory paid piece rate workers their wages only at 100% for all kinds of overtime hours.

Legal Reference: PRC Labor Law, Article 44

**Plan Of Action:** The factory will pay 150% for normal overtime and 200% for rest days.

**Deadline Date:** 06/01/2010

**Action Taken:**

**Plan Complete:** No

**Plan Complete Date:**
Forced Labor: General Compliance Forced Labor

F.1 Employers shall comply with all local laws, regulations and procedures concerning the prohibition of forced labor. (S)

Noncompliance

Explanation: It was noted that no employee had received the labor contract and that both copies were kept in the factory.

Legal reference: PRC Labor Contract Law, Article 16

Plan Of Action: The factory has distributed copies to their employees.

Deadline Date: 04/01/2010

Action Taken: No

Plan Complete: No

Plan Complete Date: 

/
Freedom of Association: Right to Freely Associate

FOA.2 Workers, without distinction whatsoever, shall have the right to establish and, subject only to the rules of the organization concerned, to join organizations of their own choosing without previous authorization. The right to freedom of association begins at the time that a worker seeks employment, and continues through the course of employment, including eventual termination of employment, and is applicable as well to unemployed and retired workers. (S)

Noncompliance

Explanation: *FLA Comment:* The Chinese constitution guarantees Freedom of Association (FOA); however, the Trade Union Act prevents the establishment of trade unions independent of the sole official trade union - the All China Federation of Trade Unions (ACFTU). According to the ILO, many provisions of the Trade Union Act are contrary to the fundamental principles of FOA, including the non-recognition of the right to strike. As a consequence, all factories in China fall short of the ILO standards on the right to organize and bargain collectively. However, the government has introduced new regulations that could improve the functioning of the labor relations mechanisms. The Amended Trade Union Act of Oct. 2001 stipulates that union committees have to be democratically elected at members' assemblies and trade unions must be accountable to their members. The trade union has the responsibility to consult with management on key issues of importance to their members and to sign collective agreements. Trade unions also have an enhanced role in dispute resolution. In Dec. 2003, the Collective Contracts Decree introduced the obligation for representative trade unions and employers to negotiate collective agreements, in contrast to the previous system of non-negotiated administrative agreements.

Source: Based on pre-audit information gathering and the monitor's experience, no "independent" unionization is allowed in the PRC. Therefore, workers are not free to join any such organization. However, this is not in the control of the factory management, it is the control of the central government. There are labor unions in many factories, but the unions belong to ACFTU and union representatives are assigned by factory management instead of elected by the workers.

Plan Of Action: N/A

Deadline Date:

Action Taken:
Plan Complete:

Plan Complete Date:

**Code Awareness:**
GEN.2 Ensure that all Company factories as well as contractors and suppliers inform their employees about the workplace standards orally and through the posting of standards in a prominent place (in the local languages spoken by employees and managers) and undertake other efforts to educate employees about the standards on a regular basis.

**Noncompliance**

**Explanation:** It was noted that MBI Code of Conduct was not provided and posted in the factory. Company did not communicate its association with the FLA to the factory management.

**Plan Of Action:** The code of conduct was printed and posted prominently. The factory acknowledged MBI's commitment to compliance with these standards.

Deadline Date: 01/08/2010

Action Taken:

Plan Complete: No

Plan Complete Date:
Code Awareness:  
GEN.3 Develop a secure communications channel, in a manner appropriate to the culture and situation, to enable Company employees and employees of contractors and suppliers to report to the Company on noncompliance with the workplace standards, with security that they shall not be punished or prejudiced for doing so.

Noncompliance

Explanation:  It was noted that there was no confidential noncompliance reporting mechanism that allows factory workers to contact the company directly.

Plan Of Action:  The factory is investigating options for a confidential compliance channel and will report back by the end of June 2010.

Deadline Date:  05/01/2010

Action Taken:  

Plan Complete:  No

Plan Complete Date:  
Health and Safety: General Compliance Health and Safety
H&S.1 Employers shall comply with all local laws, regulations and procedures concerning health and safety. (S)

Noncompliance

Explanation: It was noted that the factory did not provide occupational disease health checks for its workers in the painting section.

Legal Reference: PRC Occupational Disease Prevention Law, Article 32

Plan Of Action: The factory will provide this check to its contract workers.

Deadline Date: 06/01/2010

Action Taken:

Plan Complete: No

Plan Complete Date:
**Health and Safety: Permits and Certificates**

H&S.8 The employer shall at all times be in possession of all legally required and valid permits and certificates related to health and safety issues, such as those related to the purchase and storage of chemicals, fire safety inspections, inspection of machinery, and (chemical) waste disposal. (P)

**Noncompliance**

**Explanation:**

1. It was noted that the electrician working in this factory had not obtained the relevant license.

   Legal Reference: PRC Labor Law, Article 55

2. It was noted that 2 staff members working in the kitchen did not have health certificates.

   Legal Reference: PRC Food Hygiene Law, Article 26

**Plan Of Action:**

The factory will ensure that its electrician has the required license.

**Deadline Date:** 06/01/2010

**Action Taken:**

**Plan Complete:** No

**Plan Complete Date:**
Health and Safety: Evacuation Requirements and Procedure

H&S.9 All applicable legally required or recommended elements of safe evacuation (such as posting of evacuation plans, the installation and maintenance of an employee alarm and emergency lighting systems, ensuring aisles/exits are not blocked and that workers are not blocked within their workstations, employee education, evacuation procedures, etc.) shall be complied with. Workers shall be trained in evacuation procedures. Alarm systems shall be regularly tested and evacuation drills shall be undertaken at least annually. (S)

Noncompliance

Explanation: It was noted that at least 5 fire extinguishers in workshops on the 2nd and 3rd floors of the production building were blocked by goods.

Legal Reference: Code for Design of Extinguisher Distribution in Buildings (GB 50140-2005), Article 5.1.1

Plan Of Action: The factory has moved the blockage and pledged to maintain unimpeded access to all extinguishers.

Deadline Date: 01/01/2010

Action Taken:

Plan Complete: No

Plan Complete Date:
Health and Safety: Safety Equipment and First Aid Training

H&S.10 All safety and medical equipment (such as fire fighting equipment, first aid kits, etc.) shall be available in sufficient numbers throughout the factory, maintained and stocked as prescribed and easily accessible to workers. A sufficient number of workers shall be trained in first aid and fire fighting techniques. (S)

Noncompliance

Explanation: 1. It was noted that 50% of first aid boxes in workshops were empty.

2. It was noted that there was no eye washing station installed in the areas where chemicals were used and stored, such as the chemical warehouse and the hand painting section.

Legal Reference: Occupational Disease Prevention Law, Article 23

Plan Of Action: All first aid boxes were updated and filled. An eye washing station was installed.

Deadline Date: 01/01/2010

Action Taken: No

Plan Complete Date: 
Health and Safety: Personal Protective Equipment

H&S.11 Workers shall be provided with effective and all necessary personal protective equipment (such as gloves, eye protection, hearing protection, respiratory protection, etc.) to prevent unsafe exposure (such as inhalation or contact with solvent vapors, noise, dust, etc.) to health and safety hazards, including medical waste. (S)

Noncompliance

Explanation: It was noted that 70% of the workers in the painting section did not wear personal protective equipment (PPE), such as masks, gloves, etc.

Legal Reference: Safety Manufacturing Law, Article 37

Plan Of Action: The factory management has issued a directive to require the use of such equipment for workers' protection.

Deadline Date: 06/01/2010

Action Taken: No

Plan Complete: No

Plan Complete Date:

Health and Safety: Material Safety Data Sheets/Worker Access and Awareness

H&S.14 Material Safety Data Sheets (MSDS) for all chemicals used in the factory must be available at the usage and storage sites of the chemicals, in the local language and the language(s) spoken by workers, if different from the local language. Workers shall have free access to MSDS. (P)

Noncompliance

Explanation: It was noted that no MSDS was available for chemicals (thinner, paint, glue, etc.) used in workshops or the chemical warehouse.

Legal Reference: Chemical Usage Safety in Work Place, Clause 27.

Plan Of Action: Descriptions of all dangerous and flammable chemicals were listed in Chinese and English.

Deadline Date: 01/01/2010

Action Taken:

Plan Complete: No

Plan Complete Date:
Hours of Work: General Compliance Hours of Work

HOW.1 Employers shall comply with all local laws, regulations and procedures concerning hours of work, public holidays and leave. (S)

Noncompliance

Explanation: 1. It was noted that 80% of the workers in the painting and assembly sections worked overtime for 1-5 hours per day and 69-168 hours per month in the months of July, October and November 2009.

Legal Reference: PRC Labor Law, Article 41

2. It was noted that 80% of the workers in the painting and assembly sections worked for 70-84 hours per week in the months of September and October 2009.

Plan Of Action: Though this is difficult to control seasonally, the factory has improved by January 2010.

Deadline Date: 01/01/2010

Action Taken:

Plan Complete: No

Plan Complete Date:
**Hours of Work: Rest Day**

HOW.2 Workers shall be entitled to at least one day off in every seven-day period. If workers must work on a rest day, an alternative day off must be provided within that same seven-day period or immediately following the seven-day period. (P)

**Noncompliance**

**Explanation:** It was noted that 60% of the workers in this factory did not enjoy 1 day off every 7 days. The consecutive working days ranged from 14 to 28 days in the months of September and October 2009.

**Legal Reference:** PRC Labor Law, Article 38

**Plan Of Action:** The factory has adopted a one day per week rest day policy.

**Deadline Date:** 01/08/2010

**Action Taken:**

**Plan Complete:** No

**Plan Complete Date:**